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May 28, 2021

Via Electronic Filing

The Honorable Leonie M. Brinkema
United States District Judge
U.S. District Court for the Eastern District of Virginia
Alexandria Division
Albert V. Bryan U.S. Courthouse
401 Courthouse Square
Alexandria, VA 22314

RE: Letter re: Court's Order of May 18, 2021 [ECF No. 63] Regarding Consolidation of Cases

Judge Brinkema,

In response to your Order of May 18, 2021 [ECF No. 63], Plaintiffs in the matter 1:19-cv-00853 respectfully object to the consolidation of cases 1:19-cv-853, 1:20-cv-170, and 1:20-cv-1038 under the lead case number 1:19-cv-853.

Courts have discretion to “consolidate actions” if they “involve a common question of law or fact.” Fed. R. Civ. P. 42(a). In making this determination, courts are “guided by balancing ‘the specific risks of prejudice and possible confusion’ against ‘the risk of inconsistent adjudications of common factual and legal issues, the burden on parties, witnesses and available judicial resources posed by multiple lawsuits, the length of time required to conclude multiple suits as against a single one, and the relative expense to all concerned of the single trial, multiple-trial alternatives.’” *Roane v. United Airlines, Inc.*, 2017 WL 5054261, at *1 (E.D. Va. Feb. 2, 2017) (quoting *Arnold v. E. Air Lines Inc.*, 681 F.2d 186, 193 (4th Cir. 1982)).

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While each Plaintiffs' claims fall under the Torture Victims Protection Act ("TVPA"), there are no common questions of fact as each case deals with a different method of torture or extrajudicial killing, different times, and different people. Providing all of these cases as one to a jury could be confusing. And while the jury would determine whether the Defendant is liable under the TVPA in each case, each case can be determined separately in that a jury does not have to find in favor of all Plaintiffs if they would find in favor of one. Thus, the risk of inconsistent adjudications does not exist in this matter.

Based on the foregoing, Plaintiffs respectfully request that the Court does not consolidate the pending actions in 1:19-cv-853, 1:20-cv-170, and 1:20-cv-1038.

Respectfully Submitted,

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